IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1456 OF 2004

Office Notes, Office Memorandum of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. S.V. More, A.P.P. for the State.

Mr. P.R. Arjunwadkar, for Respondents.

CORAM : A.S. OKA, J.
DATE : 22ND AUGUST 2006

P.C. :

1. Heard learned APP for the Appellant and Shri Arjunwadkar for the Respondent. In this Appeal against acquittal, there is a prayer for grant of leave under Section 378 of the Code of Criminal Procedure, 1973. The accused persons have been acquitted of the offences punishable under Section 324 and 504 of the Indian Penal Code. Out of the 3 accused persons, one is already dead.

2. The case of the prosecution was that on 25th May 1993 at 10.00 a.m. accused No.2 Shivaji Patil

caught hold the neck of one Sanjay Kokate and accused No.1 Bapu Maruti Patil got down from a vehicle taking tommy in his hand and dealt blow of tommy on his head. Thereafter, accused No.2 Bapu Patil took out knife and assaulted the said Sanjay Kokate by knife.

3. The case of the prosecution was that recovery of tommy and knife was made at the instance of accused No.1. However, the prosecution failed to produce the said tommy and knife before the Court. This is the main reason why the learned Trial Judge came to the conclusion that there was a serious doubt about the prosecution story. The learned Judge has considered the evidence of so called eye witnesses and medical practioner. The learned Judge has also noted the fact that there was a property dispute between the parties. Considering the evidence on record, the

learned trial Judge came to the conclusion that recovery of weapons was not proved.

4. View taken by the trial Court is a possible view which is taken on the basis of evidence on record. No case is made out for grant of leave. Appeal is dismissed.

JUDGE